IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.13155 of 2000

JAI NANDAN MISHRA son of Late Ramesh Mishra, resident of Village Gajhara P.S.Ladania,District Madhubani.

Versus

1.THE STATE OF BIHAR through the Commissioner-cum-Secretary,Department of Higher Education,Government of Bihar,Patna.
2.The Vice Chancellor,Kameshwar Singh Darbhanga Sanskrit University,Kameshwar Nagar, Darbhanga.
3.The Registrar, Kameshwar Singh Darbhanga Sanskrit University,Kameshwar Nagar,Darbhanga.

CWJC No.13253 of 2000

Sribar Mishra son of Sri Hari Shankar Mishra, resident of Village Gajahara P.S.Ladania,District Madhubani.

Versus

1.THE STATE OF BIHAR through the Commissioner-cum-Secretary,Department of Higher Education,Government of Bihar,Patna.
2.The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University,Kameshwar Nagar,Darbhanga.
3.The Registrar, Kameshwar Singh Darbhanga Sanaskrit University,Kameshwar Nagar Darbhanga.

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6 17.2.2009 These two writ applications have been filed by the petitioners for a direction to the Commissioner-cum-Secretary, Department of Higher Education, Government of Bihar and the Vice Chancellor of Kameshwar Singh Darbhanga Sanskrit University,Kameshwar Nagar Darbhanga for making payment of salary to the petitioners with effect from the date the University is getting grant in-aid from the State Government for Sidheshwari Laxminath Sanskrit Mahavidyalaya, Gajhara (hereinafter referred to as the "College").

Petitioner in C.W.J.C.No.13155 of 2000 is the teacher of concerned college and petitioner in C.W.J.C.No.13252 of

2000 was Head Clerk.

Petitioner's case is that Sidheshwari Laxminath Sanskrit College, Gajhara (hereinafter referred to as the College) was established in the year 1967 under Sponsoring Committee with Sri Krishna Mishra and Sri K.K.Mishra as its Secretary besides other members. The Committee appointed Founder Principal as well as the founder teaching and non teaching staff of the College when the College took a definite shape, the Secretary of the Sponsoring Committee by its letter dated 15.1.1971 wrote to the Registrar of the University for taking necessary steps for the affiliation of the College. Along with this letter list of teaching and non teaching staffs was also forwarded. Petitioner's names were mentioned in the list forwarded by the committee along with letter dated 15.1.1971. In response to this letter inspection and other formalities was made and temporary affiliation was given by the University to the College with effect from Sessions 1974-75. Necessary permission for this temporary affiliation was also taken from the State Government. The affiliation to the College was extended up to Sessions 1999-2000 by the University. The State Government started giving grant in-aid in favour of the College for the payment of salary to the teaching and non teaching staffs since 1980-81 but no payment was made to any of the teaching and non teaching staffs of the College as the University did not release this fund in favour of the College. In support of this contention the letter no.340 dated 23.3.1983 issued by the State Government informing the Registrar of the University regarding release of

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Rs.21,35,430/- for payment of salary to the teaching and non teaching staffs of the Affiliated Non Government Sanskrit Colleges has been annexed as Annexure-3. The College in question was also included in the list attached with the said letter at Sl.No.1.

Counsel for the petitioners submits that budget submitted by the University to the State Government for release of fund also shows that one of the item is payment of salary to the teaching and non teaching staff of the affiliated College. In this list the College in question is also mentioned. Inspite of release of grant in-aid in favour of the College, the teaching and non teaching staffs of the College, who continuously worked since the date of joining were not being paid even a single farthing by way of salary. The Secretary of the Ad-hoc Committee of the College however repeatedly kept on writing to the Vice Chancellor of the University for making payment of salary but there was no response from the respondents.

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Counter affidavit has been filed on behalf of Vice Chancellor,Kameshwar Singh Sanskrit University and Registrar of the University. There is no denial in this counter affidavit so far the case of the petitioners are concerned relating to the establishment of the College and the temporary affiliation to this College by the University is concerned . It has been stated that the University had also sent its recommendation to the State Government for permanent affiliation to the college for the Sessions 1987-2001. It has also been admitted that the State Government released fund for the College for the

Sessions 1984-85. Petitioners were appointed by the Governing Body of the College and working on their posts has also not been denied. The reason for not making payment of salary to the teaching and non teaching staffs of the college in question has been mentioned in paragraph 10 of the counter affidavit. It has been stated that the founder of the College Smt. Sidheshwari Devi sent an application making allegation against the Governing body of the College. The State Government on receiving such allegation/complaint directed the University vide its letter no.02/86 (Shi) 1177 dated 30.8.86 to keep payment of salary in abeyance till the submission of the enquiry report. Since the State Government has not sent final decision with regard to payment of salary as such the fund released by the State Government for payment of salary has not been released in favour of the college. The Registrar of the University has sent letter to the State Government for a direction in this regard but ill now no direction has been received by the University.

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A counter affidavit has also been filed on behalf of respondent State. In the counter affidavit it is stated that Kameshwar Singh Sanskrit University,Darbhanga is competent authority to look into the matter as the College in question is in the category of financialy aided affiliated degree college. There is no denial that the grant in aid is being released to the Univerisity for different colleges in which the college in question is also included. In the counter affidavit filed by the State there is no statement whether still there is any reason for keeping the payment of salary to teaching and non

teaching staffs of the college in abeyance.

A rejoinder has been filed on behalf of petitioner wherein it has been stated that the temporary affiliation which was earlier only up to 1985-86 has now been extended up to 2006-07 by the State Government vide letter no.543 and communicated to the University on 10.7.2006. It has also been stated that the reason which was earlier shown for not making payment of salary to the teaching and non teaching staffs of the College has now become non existent. The so called complaint made by the founder Smt. Sidheshwari Devi was made by some other person and not by Sidheshwari Devi. Smt.Sidheshwari Devi the founder member when came to know about this complaint, she filed an application denying this fact that she made any such complaint. Letter of the founder member has also been annexed.

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Considering all these facts that the college has got affiliation up to 2006-07 and the reason for not making payment of salary is non existent, and the grant is being released to the University for making payment of salary to the teaching and non teaching staffs of the college, the order contained in letter no.02/86 (Shi) (17) dated 30.8.86 of the State Government imposing ban on the University and directing to keep the payment of salary in abeyance, is no more relevant. There is no reason for not making payment of salary to the petitioners and others teaching and non teaching staffs of the college. Ppetitioners are now retired, as such entire arrears of salary of the petitioners be released in their favour by respondent within

eight weeks from the date of receipt/production of a copy of this order. In case the petitioners are entitled for any other consequential relief that should also be made available to them by the respondents within this period.

Both the writ applications are allowed.

(Mridula Mishra, J)

Sss/-

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